

GSTAT
Single Bench Court No. 4

NAPA/233/PB/2025

DG ANTI PROFITEERING, DIRECTOR GENERAL OF ANTI-
PROFITEERING, DGAP

.....Appellant

Versus

AHMEDABAD EAST INFRASTRUCTURE LLP

.....Respondent

Counsel for Appellant

Counsel for Respondent

Hon'ble Sh. A. Venu Prasad, Member (Technical)

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZA070010426000004H

Date of order : 02/04/2026

| | | |
|-----------|---|-------------------|
| 1. | GSTIN/Temporary ID/UIN - 24AASFA0420C1Z4 | |
| 2. | Appeal Case Reference no. - NAPA/233/PB/2025 | Date - 31/08/2021 |
| 3. | Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544 | |
| 4. | Name of the respondent - 1. Ahmedabad East Infrastructure LLP , divyang.kansara@arvind.in , 7968267000 | |
| 5. | Order appealed against - | |
| | (5.1) Order Type - | |
| | (5.2) Ref Number - | Date - |

| | |
|-------------------------|---|
| 6. | Personal Hearing - 02/04/2026 20/03/2026 12/03/2026 15/01/2026 04/12/2025 |
| 7. | Status of Order under Appeal - Confirmed – Order under Appeal is confirmed |
| 8. | Order in brief - The Respondent is directed to refund the profiteered amount of Rs. 1,20,72,320/- along with interest at the rate of 18% per annum in terms of Rule 133(3)(b) of the CGST Rules, 2017, to the eligible homebuyers as mentioned in Annexure-11 of the report from the date of collection of last instalment from the buyers. |
| Summary of Order | |
| 9. | Type of order : Return to Recipient of Amount not passed on, along with interest |

Place :DELHI PB

Date : 02.04.2026



**GOODS & SERVICES TAX APPELLATE TRIBUNAL (GSTAT)
PRINCIPAL BENCH, NEW DELHI
ANTI-PROFITEERING DIVISION**

NAPA/102/PB/2025

FINAL ORDER

In the matter of:

Director General of Anti-Profiteering, Central Board of Indirect
Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir
Singh Marg, Gole Market, New Delhi-110001.

Applicant

Versus

M/s Ahmedabad East Infrastructure LLP, 24, Government Servant Society, Near Municipal Market, C G Road, Ahmedabad - 380009.

Respondent

AND IN THE MATTER OF Proceedings under Section 171 of Central Goods and Services Tax Act, 2017(Act 12 of 2017)

Quorum: -

1. Sh. A. Venu Prasad, Member Technical, Pr. Bench, GSTAT, New Delhi.

Present: -

1. Sh. Chintan Vasa, Chartered Accountant and Authorized Representative, appeared for the Respondent.
2. Sh. Praveen Kumar, Additional Assistant Director, for the Directorate General of Anti-Profiteering.
3. None Appeared on behalf of the original complainant/Applicant.

ORDER

1. These proceedings under section 171 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the Act”) started on the basis of a complaint raised by Sh. Govindbhai A. Patel, Ramlila Govindbhai Patel& Sh. Gunjan Govindbhai Patel, 401, Iscon Arcade, Near Lal Bungalow Char Rasta, C. G. Road Bridge,

Ahmedabad – 380 009 (hereinafter referred to as “the Applicant”) before the Standing Committee on Anti-profiteering.

2. The same was examined by the Standing Committee on Anti-profiteering and forwarded minutes of meeting dated 28.05.2025 to the Directorate General of Anti-Profiteering(hereinafter referred to as DGAP) to conduct a detailed investigation in respect of the applications filed under Rule 128 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “the Rules”), by the above Applicant alleging that **M/s Ahmedabad East Infrastructure LLP, 24, Government Servant Society, Near Municipal Market, C G Road, Ahmedabad – 380 009** (hereinafter referred to as “the Respondent”) had not passed on the benefit of Input Tax Credit to him by way of commensurate reduction in the price on purchase of a Flat No. 120 on the Ground Floor in the Respondent’s project “Arvind Uplands I” on introduction of GST w.e.f. 01.07.2017, in terms of Section 171 of the Central Goods and Services Tax Act, 2017.
3. Detailed investigation was conducted by the DGAP and submitted its report dated 22.10.2025 to the Pr. Bench, GSTAT. The same has been summarized as below: -
 - a. The DGAP conducted investigation for the period 01.07.2017 to 31.05.2025.

- b. The Respondent did not opt for scheme for discharging GST @ 5% (after 1/3rd abatement towards Land) in accordance with the Notification No. 3/2019- Central Tax (Rates) dated 29.03.2019 w.e.f. 01.04.2019. Therefore, the Respondent has to pay GST @ 12% with ITC w.e.f. 01.04.2019. Since the Respondent had not opted for the scheme of 5% GST without ITC w.e.f. 01.04.2019, therefore, the profiteering needs to be calculated upto the 31.05.2025 based on ITC availed.
- c. Before introduction of the GST, the Respondent was not eligible to avail credit of Service Tax and CENVAT credit of Central Excise duty in respect of the units for the project “Arvind Uplands I” sold by him.
- d. In post-GST regime, the Respondent was eligible to avail input tax credit of GST paid on all the inputs and input services as they had not opted new scheme as mentioned in Para 3(b) above, hence profiteering had to re-worked out in the instant investigation up to 31.05.2025.
- e. Out of total 180 villas, 89 Villas having area 23,989 Sq. Mts. were constructed, booked and handed over in the post-GST regime. That remaining 91 Villas (180-89)

having area 23,271 Sq. Mts. were either constructed or booked in the pre-GST regime. Therefore, these 91 Villas having area 23,271 Sq. Mts. are covered in the present investigation.

- f. As per CA certified Annexure II submitted by the Respondent vide submission dated 20.10.2025, he has availed Input Tax Credit of GST for the period July, 2017 to 31.05.2025 to the tune of Rs. 13,79,45,097/-. Further, as per the CA certified Annexure IV submitted by the Respondent, they had reversed an amount of Rs. 5,60,77,652/- vide debit entry in their GSTR Returns for the FYs of 2019-20, 2020-21, 2021-22, 2022-23, 2023-24, 2024-25 and 2025-26 under Rule 42 & Others of the CGST Rules, 2017. In support of the said claim, the Respondent submitted copies of GSTR Returns for above said FYs and Electronic Credit Ledgers, which were found in order, therefore, the reversal has been accepted by the DGAP based on the CA certification. Accordingly, the Net ITC availed by the Respondent after reversal is Rs. 8,18,67,445/-.

g. The calculation of profiteered amount from the data submitted by the Respondent has been worked out as tabulated in table-A below: -

Table – ‘A’ (in Rs.)

| S. No. | Particulars | Pre-GST Period | Post-GST Period |
|--------|---|----------------|-----------------|
| 1 | Purchase Value of Goods and Services (Excluding Taxes and Duties) | 42,28,25,494 | 82,28,13,508 |
| 2 | Credit of Service Tax availed | 3,65,50,362 | |
| 3 | Credit of VAT availed | - | |
| 4 | Total Credit Availed in Pre-GST Period | 3,65,50,362 | - |
| 5 | Net ITC of GST Availed | | 8,18,67,445 |
| 6 | Ratio of Credit Availed to Purchase Value (in %) | 8.64 | 9.95 |
| | Difference | | 1.31 |

From the above Table - ‘A’, it is clear that the input tax credit as a percentage of the purchase value of the project that was used by the Respondent during the pre-GST period was 8.64 % and during the post-GST period, it was 9.95%. Hence, the ratio of input tax credit as a percentage of expenses incurred on purchase of input goods and services in the post GST period has increased from erstwhile regime to the present GST regime. Therefore, there appears to be apparent savings made by the Respondent on account of

introduction of GST as contemplated under the observations made by the Hon'ble High Court of Delhi in the impugned order dated 29.01.2024.

- h. It is also observed that the Central Government, on the recommendation of the GST Council, had levied 18% GST (effective rate was 12% in view of 1/3rd abatement for land value) on construction service, vide Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. The effective GST rate was 12% for flats. Accordingly, based on the figures contained in table- 'A' above, the comparative figures of the ratio of input tax credit availed/available to the purchase value in the pre-GST and post-GST periods as well as the purchase value, the recalibrated base price and the excess realization (profiteering) during the post-GST period, are tabulated in Table-B below: -

Table – 'B' (in Rs.)

| Particulars | | Post-GST |
|--|---|----------------------|
| Period | A | July' 17 to 31.05.25 |
| Ratio of Credit availed to Purchase Value as per Table - A above (%) | B | 8.64/9.95 |
| Increase in input tax credit availed Post-GST (%) | C | 1.31 |
| Purchase Value of Goods and Services | D | 82,28,13,508 |

| | | |
|--|-------------------|-------------|
| (Excluding Taxes and Duties) during Post-GST Period | | |
| Total Savings on account of additional ITC benefit | $E = D * C / 100$ | 1,07,78,857 |
| Total Saleable Area (in Sq. Ft.) as per list of buyers | F | 23,271 |
| Total Saving Per Sq. Ft. | $G = E / F$ | 463.19 |
| Total Sold Area (in Sq. Ft.) | H | 23,271 |
| Base Profiteered Amount | $I = G * H$ | 1,07,78,857 |

From table- 'A & B' above, it is clear that the additional input tax credit of 1.31% (9.95% - 8.64%) of the purchase value should have resulted in the commensurate reduction in the base price as well as cum-tax price. From above table, it is evident that the Respondent has contravened Section 171 of the Central Goods and Services Tax Act, 2017 and as such the Respondent has saved/profiteered an amount of Rs. 1,07,78,857/- plus GST @12% Rs. 12,93,463/- totaling to Rs. 1,20,72,320/-. Therefore, in terms of Section 171 of the Act, the benefit of such additional input tax credit was required to be passed on to the homebuyers.

4. W.e.f. 01.10.2024, the Central Government, on the recommendations of the GST Council has empowered the Principal Bench of the GST Appellate Tribunal (GSTAT),

constituted under sub-section (3) of section 109 of CGST Act, 2017, to examine anti-profiteering cases in terms of Notification No. 18/2024-Central Tax dated 30.09.2024.

5. The above report was received in the Pr. Bench, GSTAT on 22.10.2025. A Notice dated 09.12.2025 was issued to the Respondent directing him to file his written submissions on the report of the DGAP.

6. The Respondent vide his email dated 07.01.2026 filed his reply to the Notice wherein he has stated that: -

“In order to buy peace of mind and bring closure to the litigation, the Respondent agrees to pay the amount computed by the DGAP Report dated October 22, 2025 to the respective homebuyers, which in aggregate totals Rs. 1,20,72,320/-.”

7. Hearing in the matter was held on 02.03.2026&20.03.2026. Sh. Chintan Vasa, Chartered Accountant and Authorized Representative, appeared for the Respondent. Sh. Praveen Kumar, Additional Assistant Director, for the Directorate General of Anti-Profiteering. None appeared on behalf of the original complainant/Applicant.

8. In light of the DGAP report and submissions of the parties, the following issues arise for determination:

- i. Whether the Respondent derived the benefit of additional input tax credit after the introduction of GST and if so, whether such benefit was passed on to the homebuyers in terms of Section 171 of the CGST Act or not?
 - ii. Whether the Respondent is liable to refund the profiteered amount along with interest, if not passed on earlier?
 - iii. Whether penalty under Section 171 (3A) of the CGST Act is attracted?
9. With regard to the issue number (i) and (ii) of above para, it is clear from the DGAP report that the Respondent derived the benefit of additional Input Tax Credit after the introduction of GST. As per the DGAP Report, percentage / ratio of Input Tax Credit to purchase value has been increased by 1.31 %. Respondent has also agreed with the report of the DGAP and expressed willingness to refund the profiteered amount of Rs. 1,07,78,887/- plus GST @ 12% i.e., Rs. 12,93,463/-, totalling to Rs. 1,20,72,320/-. Further it is to be noted that the said benefit was not passed on to the home buyers by the Respondents in terms of Section 171 of the CGST Act till date.
10. In view of the foregoing, the Tribunal concludes that respondent derived benefit of additional input tax credit as per findings of

DGAP after the introduction of GST and such benefit has to be passed on to the homebuyers in terms of Section 171 of the CGST Act.

11. The other issue for determination is whether interest is payable on the profiteered amount and, if so, from which date. In this regard, Section 171 of the CGST ACT creates a statutory obligation to pass on the benefit of tax reduction or additional input tax credit at the time of supply of goods and services itself. Rule 133(3)(b) of the Central Goods and Services Tax Rules, 2017 expressly empowers the Authority to order the return of amount not passed on by way of commensurate reduction in prices, along with interest at the rate of eighteen per cent from the date of collection of the higher amount till the date of its return. The provision is mandatory in nature.
12. Apart from it, reference is made to the judgment of the Hon'ble Delhi High Court in the matter of Reckitt Benckiser India Pvt. Ltd. v. Union of India, WP (C) 7743/2019, wherein the Hon'ble Court has dealt with the said aspect in Para No. 153 of the judgment. The relevant extract is reproduced below for the sake of brevity.

“153. This court is of the view that Section 171 of the Act, 2017 is broad enough to empower the Central Government to prescribe penalty and interest to ensure that the suppliers are deterred from pocketing the

benefits meant for the consumers when taxes amounts so pocketed by the supplier /registered person would not have a sufficient deterrent effect on deviant behavior unless interest and penalty are levied to prevent such actions from taking place in the first place. The width and amplitude of Section 171 by which the authority is empowered to ensure that a reduction in tax rate or the Input Tax Credit availed results in a commensurate reduction in the price of goods or services clearly encompasses within it the power to ensure that such conduct which leads to profiteering does not take.”

The Provisions with respect to interest are as follows: -

Rule 133(3)(b) – return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with the interest at the rate of eighteen percent from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be.

13. Keeping the above provisions in view, The Respondent is directed to refund the profiteered amount of Rs. 1,20,72,320/- along with interest at the rate of 18% per annum in terms of Rule 133(3)(b) of

the CGST Rules, 2017, to the eligible homebuyers as mentioned in Annexure-11 of the report from the date of collection of last instalment from the buyers. Compliance shall be reported to the jurisdictional Commissioner with intimation to the DGAP within two months from the date of this Order.

14. Further, insofar as penalty under Section 171(3A) of the CGST Act is concerned, the said provision came into force i.e. 01.01.2020, and as the period of contravention in the present case is from 01.07.2017 to 31.05.2025. Therefore, penalty is leviable as per Section 171(3A) of the CGST Act. The said provision is as:

“Where the Authority referred to in sub-section (2) after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent of the amount so profiteered:

PROVIDED that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority”.

15. A copy of this order shall be forwarded to the Respondent, Applicant, Director General of Anti-Profiteering, and jurisdictional CGST/SGST Commissioner(s) for taking further necessary action

and record.

16. The matter is disposed of accordingly.
17. Order pronounced in the open court.

(A. Venu Prasad),
Technical Member,
Principal Bench, GSTAT.

Date- 02.04.2026